

## Are there advantages to mediating at the Center?

**Yes.** Some of the advantages you should consider about mediating before filing a claim are:

### Convenience

Small Claims Court assigns you a date and court starts at 8:30 a.m.

You must wait your turn until your case can be mediated and/or tried. At the Mediation Center of Molokai, you can schedule your mediation at a time that is convenient for you. The Mediation Center has mediators available in the morning, afternoon and evenings, Monday through Friday, and Saturday mornings.

### Time

Due to the large number of cases in court and the set time period for Small

Claims cases, mediation at court may be limited to an hour or less. Mediating at the Mediation Center allows you to take the time you feel is necessary to provide all relevant information and work towards an agreement that everyone can live with. You can even come back and "fine tune" the agreement if everyone feels that changes would be helpful. (Also, if you tried mediating at the Mediation Center, you do not have to mediate again at Court.)

### Money

There is no cost for mediating at the Mediation Center of Molokai.

Small Claims requires payment of a filing fee, as well as a charge for having a sheriff "serve" the other party with the complaint (if a sheriff is used).

## How do I prepare for Mediation?

Effective mediation requires two-way communication. This means:

- **Honestly expressing your needs; and**
- **Listening to what the other party needs.**

The keys to a successful mediation are:

- **Cooperation; and**
- **Flexibility**

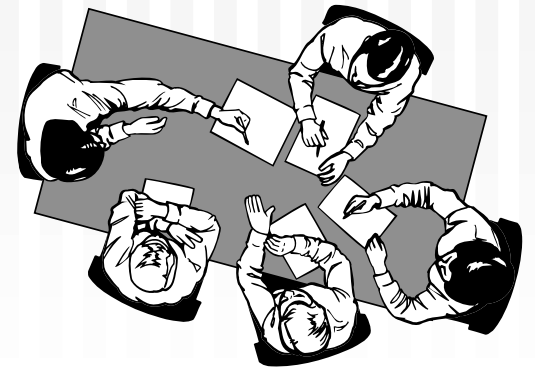
The following suggestions will help you reach a fair agreement:

- **Don't have a "win or lose" attitude;**
- **Don't be fixed on a specific outcome, be open to new ideas or suggestions;**
- **Don't lay blame or seek revenge;**
- **Look to the future, not the past;**
- **Express and listen. Help others understand you, and do your best to understand them.**
- **Bring all relevant documents.**



## Going to Small Claims Court?

## What do you know about Mediation?



What you should know before you file your claim or go to Small Claims

# What is Mediation?

The District Court of the Second Circuit and the Mediation Center of Molokai have established a successful program of mediation in Small Claims Court. Mediation is an alternative method of resolving a dispute and has several advantages over the usual judicial process.

- **YOU DECIDE.** Once a judge makes a decision in a Small Claims case, at least one party (and sometimes both parties) leave unhappy. There is no right of appeal. In mediation, you and the other party, with the help of a mediator, decide what is a fair solution. This way, you avoid the risk of “losing” in court or reaching an outcome which does not meet your satisfaction.
- **CUSTOMIZED SOLUTIONS.** Even if you “win” your case, the court does not collect the money for you. In mediation, a mediator can help you develop a “customized” agreement that meets the special circumstances of you and the other party (including a clear payment plan). The agreement will then become a record of the court and each party will receive a copy.
- **CONFIDENTIAL.** A court judgment may appear on your credit records. Everything you say or write in mediation is strictly confidential.
- **NO COST.** There is no extra charge for the mediation process.
- **A TRIAL IS STILL AN OPTION.** If you are not happy with the judges decision, you can’t change it. If you are not able to reach an agreement through mediation, you can return to court.

# How does Mediation Work?

All cases that cannot reach agreement (contested) on the Small Claims calendar will be referred to mediation. This means that before you present your case to a judge, you must attempt to reach an agreement in mediation.

Volunteer mediators are available at the court house. However, if you want to try to settle your dispute through mediation before filing a claim, you may contact the Mediation Center directly.

## Who are the Mediators?

Mediators are neutral third parties who provide a structure and environment that assists communication and helps identify key facts and issues of the parties. Mediators also help develop options to move towards agreements that are acceptable to both sides. All Small Claims mediators are trained volunteers from the Mediation Center.

## Mediating at Court

After you arrive at court, the judge will provide a brief explanation about the Small Claims process and then the Court Clerk will call each case and instruct the parties in contested cases to go with a mediator to a private mediation room near the courtroom. Generally, only the parties named as plaintiff or defendant in the original claim filed with the court may attend the mediation session.

Once in the mediation room, you may be asked to exchange all information, including documents, photographs and all materials that support your claim. The mediator will help you communicate with each other to work towards a resolution of the claim. The entire process takes about an hour. Afterwards, you return to court.

# What is the Mediation Center of Molokai?

**MEDIATION CENTER OF MOLOKAI (MCM)** is a private non-profit organization that helps people resolve conflicts of all types. The Mediation Center uses trained volunteer mediators to work with the parties involved in the disputes. MCM has been serving the community since 1985 and has mediated hundreds of cases.

The process for mediating a problem or potential small claims dispute at the Mediation Center is simple.

- Call **553-3844** and say you would like to mediate a dispute;
- You will be required to provide some background information about yourself and the dispute, as well as the name and telephone number of others involved;
- An MCM case manager will then contact the others and determine if they are willing to mediate (mediation at MCM is voluntary);
- If everyone agrees to mediation, then a meeting will be scheduled at a convenient time, either during the day, evenings or week-ends.



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